

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**AMANDA A. BARR,**

**Plaintiff,**

**vs.**

**CIV -09-62 RLP**

**MICHAEL J. ASTRUE, Commissioner,  
Social Security Administration,**

**Defendant.**

**ORDER**

This matter is before the Court on Defendant's Motion to Remand (Doc. # 10) filed May 20, 2009. Plaintiff does not oppose this motion. Defendant seeks remand of this matter pursuant to “sentence six” of 42 U.S.C. § 405(g), which provides

[T]he Court may, on motion of the Commissioner of Social Security made for good cause shown before the Commissioner files the Commissioner's answer, remand the case to the Commissioner of Social Security for further action by the Commissioner of Social Security....

42 U.S.C. 405(g).

The Court may remand a Social Security case pursuant to sentence six without ruling on the merits if the Commissioner requests remand for good cause before filing his answer. **See Nguyen v. Shalala**, 43 F.3d 1400, 1403 (10th Cir.2003).

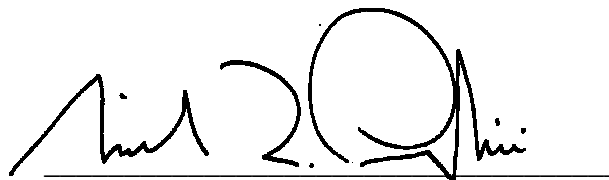
In his briefing, the Commissioner asserts that remand is necessary because “the Office of Hearings and Appeals has ascertained that the tape recording of the hearing (before the administrative law judge) held on November 15, 2007, is inaudible and cannot be transcribed.” The Commissioner proposes that this matter be remanded for a *de novo* administrative hearing.

I FIND that the Motion is well taken and should be granted.

IT IS THEREFORE ORDERED that Defendant's Motion to Remand (Doc. # 10) is GRANTED and this case is REMANDED for further administrative proceedings to determine whether plaintiff is disabled within the meaning of the Social Security Act. Pursuant to sentence six of 42 U.S.C. § 405(g), the Court retains jurisdiction and judgment should not be entered.

IT IS FURTHER ORDERED that the Clerk shall administratively terminate this action without prejudice to the rights of the parties to reopen the proceedings for good cause shown, for the entry of any stipulation or order, or for any other purpose required to obtain a final determination of the litigation.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'Richard L. Puglisi', is written over a horizontal line.

RICHARD L.PUGLISI  
United States Magistrate Judge.